

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISON**

EQUAL EMPLOYMENT OPPORTUNITY)
COMMISSION,)
)
Plaintiff,)
)
v.)
)
HALLIBURTON ENERGY SERVICES, INC.)
)
)
Defendant.)

**Civil Action No.
3:16-cv-0233-CWR-FKB**

**PLAINTIFF’S MOTION TO STRIKE AND EXCLUDE DEFENDANT’S SECOND
SUPPLEMENTAL INITIAL DISCLOSURE WITNESSES**

Plaintiff (“EEOC” or the “Commission”), pursuant to Rule 37(c)(1) of the Federal Rules of Civil Procedure, moves the Court to strike and exclude Defendant’s untimely disclosed potential witnesses Andre Erasmus and James Kopecki identified in Defendant’s Second Supplemental Initial Disclosures from providing evidence on any motion, at a hearing, or at trial of this case. In support of this motion, Plaintiff avers:

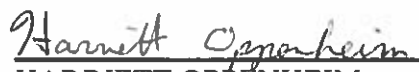
1. The Commission brings this action against Halliburton Energy Services (“Defendant” or “Halliburton”) for specific performance and damages resulting from Halliburton’s breach of a Mediation Settlement Agreement entered into between the EEOC, Halliburton, and Jason Anderson (“Anderson”) to settle Anderson’s disability and age discrimination EEOC Charge.

2. The Commission initiated this litigation on March 31, 2016. (Doc 1). The Court entered multiple amended scheduling orders, but the ultimate deadline for the Commission and Defendant to complete all discovery was August 29, 2017. (Text Order: 4/28/17)
3. Defendant's Second Supplemental Initial Disclosures, produced on August 29, 2017, the date discovery closed, for the first-time disclosed Andre Erasmus and James Kopecki as potential witnesses Defendant may call who may have knowledge regarding the facts and allegations in this matter.
4. Rule 26(e)(1)(A) of the Federal Rules of Civil Procedure specifies that a party must supplement its disclosure "in a timely manner if the party learns that in some material respect the disclosure or response is incomplete or incorrect" Defendant never identified or disclosed these witnesses prior to the last day for supplementing discovery.
5. Without any justification for its delay, Defendant waited until the discovery cutoff deadline to disclose two witnesses in violation of its obligation to supplement its disclosures in a timely manner. Defendant's untimely disclosure was not substantially justified, is not harmless, and is due to be stricken.

WHEREFORE, PREMISES CONSIDERED, the Commission respectfully requests this Court order that grant the Commission's Motion to Strike and Exclude Defendant Halliburton Energy Services, Inc.'s Second Supplemental Initial Disclosures.

The Commission contemporaneously submits a Memorandum in support of this Motion.

Dated this the 16th day of October, 2017.


HARRIETT OPPENHEIM
Senior Trial Attorney

(MS Bar No. 103149)
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Dr. A. H. McCoy Federal Building
100 W. Capitol Street, Suite 338
Jackson, Mississippi 39269
Tel.: (601) 948-8454
Fax: (601) 948-8401
harriett.oppenheim@eeoc.gov

Kurt Fischer
(ASB-9772-R72F)
Trial Attorney
EQUAL EMPLOYMENT OPPORTUNITY
COMMISSION
Birmingham District Office
Ridge Park Place
1130 22nd Street South, Suite 2000
Birmingham, Alabama 35205
Phone: (205) 212-2043
kurt.fischer@eeoc.gov
ATTORNEYS FOR PLAINTIFF

CERTIFICATE OF SERVICE

I hereby certify that on October 16, 2017, I filed the foregoing Motion to Strike and Exclude Defendant Halliburton Energy Services, Inc.'s Second Supplemental Initial Disclosures with the Clerk of Court using the CM/ECF system which will electronically send notification of the filing to all attorneys of record:

CHRISTINE S. KEENAN, T.A. (MS. #10756)
JEREMY J. LANDRY (admitted *pro hac vice*)
THE KULLMAN FIRM, PLC
4605 Bluebonnet Boulevard, Suite A
Baton Rouge, Louisiana 70809
Telephone: (225) 906-4250
Facsimile: (225) 906-4230
E-mail: csk@kullmanlaw.com; jjl@kullmanlaw.com

And

TAYLOR B. SMITH, (MS. #7613)
THE KULLMAN FIRM, PLC
P.O. Box 827
119 3rd Street South, Suite 2
Columbus, Mississippi 39701

Telephone: (662) 244-8824
Facsimile: (662) 244-8837
E-mail: tbs@kullmanlaw.com
ATTORNEYS FOR DEFENDANT

Dated this the 16th day of October, 2017.



HARRIETT OPPENHEIM
Senior Trial Attorney